

impressions inclined him to yield to the suggestions of the defendant to allow him interest on his overpayment, but upon further investigation, he had come to a different conclusion; and finally declares his own willingness, and the willingness of the other parties to settle, as first proposed, for the purpose of closing up the matter in a spirit of peace and harmony.

The question is upon the effect of this letter, its genuineness being admitted, and it being also admitted that the writer was a party to the original decree, and the solicitor and agent of the other parties.

When these negotiations commenced, and what influence they may have had in inducing an abandonment of the appeal, it is impossible to ascertain with any great degree of certainty, but it is very obvious that the parties did not consider the decree of August, 1841, as conclusively settling the questions in issue between them, and that for some reason or other, the defendant abandoned, or pretermitted the right which he had secured to have the decree against him reviewed by the appellate court. If these negotiations induced him to waive his appeal, then the promise to allow the credit which was the result of them, rests upon a good and valid consideration, and should be enforced. And I confess that looking to the relations of the parties, the character of the transactions out of which the claim arises, and the scope and tenor of the letter, the impression upon my mind is very strong that but for these efforts to bring about a friendly settlement, and the natural and praiseworthy desire to compromise a family controversy, the case would have been subjected to the revision of the superior court.

The argument for the counsel for the complainant, in which this credit is now resisted, insists that the offer to allow it was prompted by a desire to insure a speedy settlement of the claim, which object not being accomplished, the offer was withdrawn, and accordingly we find in the agreement attached to the letter, that prior to the filing the petition for the *subpœnas scire facias*, the authority of the counsel of the complainant to give the credit was revoked.

But the question is, had the complainants the right to do